

Decommissioning and Disposal Funds

Governance audit

Key facts

The Swiss Federal Audit Office (SFAO) examined issues to do with corporate governance in the Decommissioning Fund and the Disposal Fund for Nuclear Installations within the scope of the 2014 audit programme. The Nuclear Energy Act (NEA) governs the rights and obligations relating to the disposal of nuclear waste. In accordance with the "polluter pays" principle, operators have to pay for safe disposal. To finance these costs, both funds were set up as institutions under public law, under the supervision of the Federal Council. Management of the funds is carried out by the Commission, which mandates a Management Board and is subject to external revision. The Commission is made up of four representatives of power plant operators and five people from the Federal Administration or independent representatives. According to the annual report, there was approximately CHF 1.7 billion in the Decommissioning Fund and approximately CHF 3.6 billion in the Disposal Fund at the end of 2013. According to the estimates of the 2011 Cost Study, the Decommissioning Fund will need almost CHF 3 billion in the future. With regard to disposal costs, the ongoing costs are paid directly by the nuclear power plant operators. To this end, the plant operators have to pay approximately CHF 2.6 billion overall. According to the Cost Study, approximately CHF 8.4 billion has to be paid into the Fund for the costs involved once facilities have been decommissioned. This figure must be seen in relation to the currently available resources of CHF 3.6 billion. A revision of the Decommissioning and Disposal Funds Ordinance (DDFO) is under way at the moment, and this should bring various improvements in terms of securing the financial resources required in the future.

In its current form, the governance structure of the Decommissioning and Disposal Funds is not entirely suitable for ensuring the "polluter pays" funding for the disposal of nuclear waste. In the medium term, the Confederation carries a high financial risk, whilst the nuclear power plant operators exert a significant degree of influence on the management of the funds. The SFAO made recommendations on the following topics:

The structures of the Decommissioning and Disposal Funds are in compliance with the law but are not in line with corporate governance

The structure of the Decommissioning and Disposal Funds is in compliance with the requirements of the DDFO. An assessment of the representatives of the body concerning critical cumulations of functions also shows compliance with the requirements of the Act and the Ordinance. Various weaknesses are evident, however, in the assessment of the structures and processes in accordance with the principles of the Federal Council's Corporate Governance report of 2006. There is an intermingling of personnel between the structures of the Decommissioning and Disposal Funds and the Confederation's supervisory level. The SFAO recommends to the Federal Department of the Environment, Transport, Energy and Communications (DETEC) to eliminate these conflicts of interest immediately. Furthermore, unclear role distribution is to be found in the Confederation's supervisory activities between the federal offices involved.



The operators' financial contributions are calculated on the basis of an ideal scenario

The cost studies which are drawn up on the instructions of the Commission are based on an ideal scenario. After being identified, risks or potential additional costs caused by delays due to objections or more stringent environmental regulations can only be incorporated into the subsequent cost study. The DDFO defines inflation which has to be taken into account, and this is based on the National Consumer Price Index (currently inflation of 3% is expected, with the revised DDFO this would still be 1.5%). Additional costs which could be expected due to more stringent technological requirements are not a component of the costs which are used to calculate the contributions of the nuclear power plant operators. Due to the contributions being calculated based on the ideal costs, there has been a tendency in the past few years to sell electricity too cheaply. Some day, the next generation will thus have to pay for the costs of today's business activities. The SFAO recommends to the DETEC to carry out its calculations using various scenarios in the case of future cost studies and to use a realistic scenario for calculating contributions.

The Confederation's liability risk is high

Liability on the part of the Confederation can arise with both funds on the basis of two laws:

1. In Article 80 of the NEA, liability of the Confederation is established at the end of a cascade. This is applicable if the nuclear power plant operator is no longer able to pay the costs and if the costs are "economically no longer sustainable". The SFAO considers the risk to be a high one, particularly against the backdrop of the deterioration in electricity margins but also due to the legal structure of individual plants, which are liable as separate operating companies with share capital of CHF 350 million. This is expected to happen probably in the medium term.
2. According to the Government Liability Act, liability of the Confederation can arise in the sense of contingent liability for damage for which the Decommissioning and Disposal Funds would be liable. The Decommissioning and Disposal Funds do not have their own liability substrate at present and in the event of liability are not themselves able to assume the liability, which would lead directly to the Confederation being liable. The risk exists not just with the current mixed composition of the Commission, but would also be present with a strictly independent Commission and, in combination with the cascading liability in the NEA, must be considered as a high one.

Influence and responsibility must be coordinated in the Decommissioning and Disposal Funds

The goals of the delegation of tasks, competences and responsibilities pursued with the outsourcing to an institution under public law cannot be achieved with the Decommissioning and Disposal Funds. The SFAO believes that the financial responsibility ultimately rests with the Confederation, which is inconsistent with the costs being born in line with the "polluter pays" principle. In addition, the operators' influence is considerable due to the significant involvement of the plant representatives in the Commission and other bodies. The SFAO recommends that the funds should be managed exclusively by independent representatives in order for this imbalance to be removed.

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